

## **REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed November 5, 2008. Reconsideration and allowance of the application and pending claims are respectfully requested.

### **I. Claim Rejections - 35 U.S.C. § 103(a)**

As has been acknowledged by the Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office ("USPTO") has the burden 35 U.S.C. § 103 to establish obviousness by showing objective teachings in the prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. *In re Fine*, 837 F.2d 1071, 1074, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). The key to supporting an allegation of obviousness under 35 U.S.C. § 103 is the clear articulation of the reasons why the Examiner believes that claimed invention would have been obvious. See MPEP § 2141. As stated by the Supreme Court, "[r]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR v. Teleflex*, 550 U.S. at \_\_\_, 82 USPQ2d at 1396 (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)).

Applicant respectfully submits that the Examiner has not established with clearly articulated reasons that Applicant's claims are obvious in view of the prior art. Applicant discusses those claims in the following.

**A. Rejection of Claims 1, 4, 5, 8, 9, 11-15, 18, and 20**

Claims 1, 4, 5, 8, 9, 11-15, 18, and 20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Stancil, et al.* ("Stancil," U.S. Pat. No. 6,065,081) in view of *Bolian, et al.* (U.S. Pat. No. 6,968,466) in view of *Mooney, et al.* ("Mooney," U.S. Pat. No. 5,515,440) in further in view of *Yamamoto, et al.* ("Yamamoto," U.S. Pub. No. 2005/0077355). Applicant respectfully traverses.

Applicant's claim 1 provides as follows:

1. A computer comprising:
  - a network interface configured to receive via a network authorization from a remote network administrator device for the computer to use a modem card that facilitates connectivity between the computer and other devices;
  - a card slot configured to receive the modem card;
  - a card detector configured to detect the presence of the modem card when the modem card is inserted into the card slot; and
  - a card power switch configured to supply power to the modem card only when the authorization has been received and the card detector detects the presence of the modem card within the card slot.

In the Office Action it is acknowledged that Stancil does not disclose "a network interface configured to receive via a network authorization from a remote network administrator device for the computer to use a modem card that facilitates connectivity between the computer and other devices". In view of that shortcoming, the Bolian reference is cited, which is said to disclose remotely powering down a card slot. It is then concluded that it would have been obvious in view of the Stancil and Bolian

references to provide a computer having such an interface. Applicant respectfully disagrees.

Stancil discloses enabling or disabling card slots depending upon whether an administrative password is entered into the computing device of which the slots form a part. Therefore, missing from Stancil is a disclosure of a “network interface configured to receive via a network authorization from a remote network administrator device”. Notably, Bolian does not provide a disclosure or suggestion of that claim limitation either. Instead, Bolian merely discloses a management controller 250 of a blade server system controlling power to the server blades 210 of that system. In the system, the management controller is coupled to a midplane of a rack or tower to which each of the server blades are also coupled. Therefore, although Bolian uses the terms “remote” and “remote power signal”, what Bolian is actually referring to is the management controller of the tower signaling the server blades of the tower. Such a signal cannot reasonably be considered an authorization received by a “network interface” or “via a network” as are explicitly required by claim 1.

As a further matter regarding the “network interface” limitation, Bolian does not disclose or suggest a network interface configured to receive an authorization “for the computer to use a modem card”. Assuming that Bolian’s remote power signal to the server blade is considered the claimed “authorization”, that signal clearly does not communicate an authorization for the server blade to “use a modem card”. Indeed, as expressed in the Office Action, the server blade *is* the card, and authorization for that card to “use a modem card” is nonsensical.

It is also acknowledged in the Office Action that neither Stancil nor Bolian discloses a “card detector configured to detect the presence of the modem card”. It is alleged, however, that Mooney remedies that shortcoming in column 4, lines 20-26 where Mooney allegedly discloses a “card detector.” That portion of Mooney’s disclosure provides as follows:

The interface board 109 is typically implemented with printed circuit board technology, although other equivalent technologies may be substituted without loss of generality. Peripherals 121 within computer 103 are controlled by the CPU 123 and PLD 129 with a power control circuit 119, which turns power off and on to peripherals 121.

*Mooney*, column 4, lines 20-26. As can be appreciated from the above excerpt, *Mooney* says nothing about a card detector.

It is further acknowledged in the Office Action that neither Stancil nor Bolian discloses a “card power switch configured to supply power to the modem card only when the authorization has been received and the card detector detects the presence of the modem card within the card slot”. It is alleged, however, that Mooney also remedies that shortcoming. As noted above, however, Mooney does not disclose any card detector, or the action of card detection. It follows then that Mooney does not comprise the missing disclosure.

As a final matter, Applicant notes that the Office Action acknowledged that none of Stancil, Bolian, or Mooney disclose the various claimed actions that are performed relative to a “modem card”. The Office Action addresses that shortcoming by citing the Yamamoto reference, which generally discloses a modem card. Applicant responds by

asserting that there is no legitimate basis for modifying the teachings of the other applied reference to comprise a modem card simply because Yamamoto identifies one. Stancil only discusses PCI and ISA card slots, and is silent as to modem cards. Bolian, on the other hand, limits his disclosure to servers (i.e., complete computers) that just happen to be configured on a single card. Finally, Mooney limits his disclosure to the powering of “peripherals”. Clearly, there is no motivation to make the suggested modification other than that which comes from Applicant’s own disclosure. As is well established in the law, such hindsight to the Applicant’s own disclosure is *per se* improper. See *Crown Operations International, Ltd. v. Solutia, Inc.*, 289 F.3d 1367, 62 USPQ2d 1917 (Fed. Cir. 2002) (a determination of obviousness cannot be based on a hindsight combination of components selectively culled from the prior art to fit the parameters of the invention). In this case it appears clear that the Yamamoto reference was “selectively culled from the prior art” simply for the purpose of rejecting Applicant’s claims.

In view of the above, Applicant respectfully submits that claim 1 and its dependents are allowable over the applied references. Applicant further submits that independent claim 13 and its dependents are also allowable over the applied references given that claim 13 comprises limitations similar to at least some of those discussed above in relation to claim 1. Applicant therefore respectfully requests that all of the rejections be withdrawn.

**B. Rejection of Claims 3, 10, 16, 18, 24, and 26**

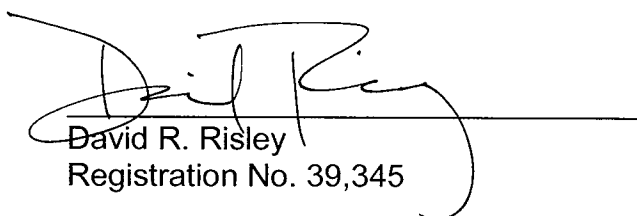
Claims 3, 10, 16, 18, 24, and 26 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Stancil* in view of *Bolian* further in view of *Mooney* in further view of *Yamamoto*, and in further view of *Morrow* (U.S. Pub. No. 2004/0156151). Applicant respectfully traverses the rejection.

As identified above, *Stancil*, *Bolian*, *Mooney*, and *Yamamoto* do not teach aspects of Applicant's claims. In that *Morrow* does not remedy the deficiencies of the *Stancil*, *Bolian*, *Mooney*, and *Yamamoto* references, Applicant respectfully submits that claims 3, 10, 16, 18, 24, and 26 are allowable over the *Stancil/Bolian/ Mooney/Yamamoto* combination for at least the same reasons that claims 1 and 13 are allowable over *Stancil/Bolian/Mooney/Yamamoto*.

### **CONCLUSION**

Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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